

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

KINNEY CONTRACTORS, INC.

Employer

and

Case 14-RC-12290

LOCALS 965, 150, 318, 620 & 649 OF THE
INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO AND LABORERS'
INTERNATIONAL UNION OF NORTH
AMERICA, AFL-CIO

Joint Petitioners

ORDER

This case involves a petition filed on October 10, 2001, seeking an election among "All full-time and regular part-time employees of Kinney Contractors, Inc. performing work as equipment operators, drivers, mechanics, laborers, finishers, flaggers and related work in the traditional construction crafts employed by the Employer in the State of Illinois Excluded office, clerical, and professionals, guards & supervisors as defined in the Act." The petition was blocked by a series of charges filed against the Employer, one of which alleged that the Employer unlawfully recognized United Highway Workers Union as the representative of the employees involved. Since that recognition was found to be lawful, further processing of this petition is not warranted.

Specifically, the investigation disclosed that on October 1, 2001, before a neutral party, the United Highway Workers Union and the Employer agreed to voluntary recognition of United Highway Workers Union if it could establish that it represented a majority of the employees. The neutral party declared that the United Highway Workers

had majority status and, as of that date, the Petitioner did not have a 30-percent showing of interest from such employees prior to recognition and, therefore, did not meet its burden under *Smith Food and Drug Center*, 320 NLRB 844 (1996).

The Regional Director having fully and carefully considered the matter,

IT IS HEREBY ORDERED that the Notice of Representation Hearing previously issued in this matter is withdrawn.

IT IS FURTHER ORDERED that the petition is dismissed.

Your Right to Request Review: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing a request for review with the National Labor Relations Board. If you wish to file a request for review, your attention is directed to the following:

Request for Review Due Date: The request for review must be received by the National Labor Relations Board in Washington, D.C. by the close of business at 5 p.m. (EDT) on **July 21, 2003**. However, if you mail the request for review, it will be considered timely if it is postmarked no later than one day before the due date. The request for review **MAY NOT** be filed by facsimile transmission.

Extension of Time to File Request for Review: Upon good cause shown, the Board may grant special permission for a longer period to file the request for review. Any request for an extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and **must** be received no later than the request for review due date indicated above. The request for an extension of time may be filed by mail or by facsimile transmission. The fax number is (202) 273-4270. A copy of any request for an extension of time should be sent to me.

Request for Review Contents: The request for review must contain a complete statement setting forth the facts and the reasons why you want a review of the decision to dismiss your petition.

Address for Request for Review. The request for review should be addressed to the Executive Secretary, National Labor Relations Board, Franklin Court Building, 1099 14th Street, Washington, D.C. 20570. You should send a copy of the request for review to me, and to the other parties shown below.

July 7, 2003

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